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10/769,813	02/03/2004	Jong Hyeok Lee	2950-0284P	9550

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EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2627

NOTIFICATION DATE	DELIVERY MODE
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09/18/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/769,813

Applicant(s)

LEE, JONG HYEOK

Examiner

TAN X. DINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1) The amendment filed 7/17/2006 is acknowledged. New claims 12 and 13 have been added.

2) Claims 2, and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The rejection of claims 2 and 8 is last office action is repeated herein.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

4) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5) Claims 1,7,12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by CHOI et al (US 2004/0218497).

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CHOI et al discloses a method for determining the type of an optical disk loaded into an optical disk drive, as claimed in claim 1, comprising the step of:

(a) detecting a level of a wobble extraction signal while a focusing servo is turned on (Fig.4, 404);

(b) determining a type of a loaded optical disk based on the detected signal level (Fig.4, 405, 406);

c) performing a tracking servo adjustment operation according to the determined optical disk type (Fig.4, 407).

Claims 7,12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by CHOI et al with the same reasons set forth in claim 1 above.

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7) Claims 1,7,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over TAWARAGI (US 2004/0130991).

TAWARAGI discloses a method for determining the type of an optical disk as claimed in claim 1, comprises the step of (a)

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detecting a level of a wobble extraction signal while a focusing servo is turned on, but before a focusing servo adjusting has been completed (paragraph [0078]), (b) determining a type of a loaded optical disk based on the detected signal level (paragraph [0078]), *except to specifically show the step of adjusting tracking servo operation according to the determined optical disk type. However, the optical disk detecting system of TAWARAGI capable of detecting between CD-ROM, DVD-ROM, CD-R/RW or DVD-R/RW in order to perform recording or reproducing operations on these types, obviously, the tracking servo must be adjusted depend on the type of the optical recording medium as claimed.*

Claims 7,12 and 13 are rejected with the same reasons set forth in claim 1 above.

8) Claims 1-13 are further rejected under 35 U.S.C. 103(a) as being unpatentable over MAEGAWA et al (6,859,425).

MAEGAWA et al discloses a method for determining the type of an optical disk as claimed in claims 1 and 5, comprises the step of (a) detecting a level of a wobble extraction signal while a focusing servo is turned on, but before a focusing servo adjusting has been completed (column 32, lines 5-40), (b) determining a type of a loaded optical disk based on the detected signal level (column 1, lines 5-15), *except to specifically show the step of*

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adjusting tracking servo operation according to the determined optical disk type. However, the optical disk detecting system of TAWARAGI capable of detecting between CD-ROM, DVD-ROM, CD-R/RW or DVD-R/RW in order to perform recording or reproducing operations on these types (see column 3, lines 10-44), obviously, the tracking servo must be adjusted depend on the types of the optical recording medium as claimed.

Claims 7,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over MAEGAWA et al with the same reasons set forth in claim 1 above.

Claim 2-6,8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over MAEGAWA et al with the same reasons set forth in previously Office action.

9) Applicant's arguments filed 7/17/2006 have been fully considered but they are not persuasive.

First, applicant is corrected by stating that claims 2,3 and 8 are a part of original disclosure but the disclosure includes specification and the specification did not provide support for these claims. The paragraph "For example, the paragraph bridging pages 8 and 9 of the main body of Applicant's specification clearly states that if the optical disk 10 is determined to be a CD-RW or CD-R, the microcomputer 70 performs two operations in sequence, the first being an optimal tracking gain adjustment according to the determined type of the optical disk 10 and the

second causing the tracking servo to be turned on (S31)” as applicant’s argued is incorrect since this is completely inconsistent with the statement in claims 2 and 8 that the *level detection means* detects the level of the wobble extraction signal while the tracking servo is off.

Second, the features of “detecting a level of a wobble extraction signal while a focusing servo is turned on but before a focusing servo adjustment has been complete” is shown in CHOI et al’s figure 4, step 404 and the specification, paragraph [0035], In this figure, the wobble extracting signal is detected at steps 403 and 404 before focusing adjustment has been completed (step 407). In another words, the optical disk device detects a level of a wobble extraction signal and determining the type of loaded optical disk before complete the step of setting/adjusting the focusing (step 407). For that reasons, the claims are still rejectable as shown above.

Third, the rejection of claims 1,7,12 and 13 under 35 USC 103(a) are based on “ the determination subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art at the time the invention was made ”, this feature is clearly shown and/or inherent in TAWARAGI’s optical disk determining method since the invention, as a whole, is directed to determine the type of an optical recording medium and setting a focusing servo thereafter for

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performing recording or reproducing processes (see paragraph [002] to [0010]. For that reasons, the claims are still rejectable as shown above.

Fourth, applicant states that the reference of MAEGAWA et al did not " concerning how it goes about determining the type of disk that uses the wobble signals to improve recording of information onto an optical disk ". Applicant is directed to MAEGAWA et al's column 32, lines 5-44. The optical disk (CD or DVD) are identified based on detecting the wobble signal (see figure 2, wobble signal detection circuit 30). For that reasons, the claims are still rejectable as shown above.

10) THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory

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action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY to FRIDAY from 9:00AM to 5:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TAN DINH
PRIMARY EXAMINER**

September 12, 2007